



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Department of Ecology

Subject of possible rule making: Ecology's Toxics Cleanup Program is proposing a new Chapter to re-organize, revise, and add additional subject matter to the current Underground Storage Tank ("UST") rule, WAC 173-360. The purpose of the UST rule is to prevent or reduce leaks of petroleum and other hazardous substances from UST systems. Revisions are needed to comply with the federal Energy Policy Act of 2005 and the 2007 amendments to the state UST law (Chapter 90.76 RCW). Ecology would also like to improve the clarity and readability of the rule. To this end, we are proposing a new chapter incorporating much of the current UST rule, along with some changes and additions. Ecology would then issue a repeal of the current rule at a later date. Some of the changes being considered include:

- A mandatory UST owner and operator training program
- Requirements for secondary containment systems on new tanks, piping, and dispensers
- Procedures to implement a delivery prohibition enforcement option (a "red tag" program)
- Increased annual fees (as specified in the enabling state statute)
- Changes to improve the organization and readability of the rule
- Changes in standards for equipment, maintenance, and inspection to reduce the likelihood of leaks and spills

Statutes authorizing the agency to adopt rules on this subject: Chapter 90.76 RCW

Reasons why rules on this subject may be needed and what they might accomplish: There are two main reasons for the rule revisions:

(1) To comply with changes to state and federal laws.

(2) To improve a poor rate of regulatory compliance with our current UST rule.

If we do not amend the UST rule, the federal Environmental Protection Agency (EPA) would be required to assume responsibility for the underground storage tank program in Washington.

Compliance with the UST rule and its proposed provisions should reduce leaks and spills from USTs. UST leaks (mainly petroleum) can pollute groundwater and adjacent surface waters. The rule revisions will improve the ability of UST owners and operators to prevent these types of contamination problems. The rule revisions will support three of Ecology's strategic priorities:

(1) Reducing toxic threats;

(2) Protecting and restoring Puget Sound and Hood Canal; and

(3) Managing our water successfully.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

The federal Environmental Protection Agency (EPA) oversees our state UST program and will review our proposed rule.

Process for developing new rule (check all that apply):

☐ Negotiated rule making

☐ Pilot rule making

☐ Agency study

☒ Other (describe): The proposed rule will be drafted and reviewed internally by staff with informal input from stakeholder groups.

Once proposed language is ready for public comment, a copy will be posted on the agency website, and public comments will be accepted. Six to eight public hearings will be held throughout the state during the public comment period; postcard and/or e-mail reminders will be sent to registered tank owners prior to their local public hearing.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Interested parties can learn more by contacting the staff member listed below, or by visiting our website at

<http://www.ecy.wa.gov/laws-rules/currentactivity.htm>

Amie Hirsch

Department of Ecology, Toxics Cleanup Program

300 Desmond Dr. SE, Lacey

PO Box 47600

Olympia, WA 98504-7600

Tel. 360-407-7232; e-mail ahir461@ecy.wa.gov

DATE

7/18/2008

NAME (TYPE OR PRINT)

Jim Pendowski

SIGNATURE

TITLE

Program Manager

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